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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,006	03/01/2002	Birgir Magnusson	1030.41308X00	1131

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EXAMINER

PICKETT, JOHN G

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/085,006

Applicant(s)

MAGNUSSON, BIRGIR

Examiner

Gregory Pickett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6 and 7 is/are rejected.
- 7) ☒ Claim(s) 5 and 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7 June 2004 has been entered.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Kumakura et al (US 6,439,390).

Regarding claim 1, Kumakura et al discloses a packaging 1 holding an article 2 and including a plastic member (portion 4 of 3 and 7a), a protruding part 5 which

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receives article **2**, a perforation **6**, and a foldable part **7b** holding a second article **2** as claimed.

As to claim 2, Kumakura et al discloses a second protruding part **5**.

4. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Weaver, Jr. (US 5,277,920).

Regarding claim 1, Weaver Jr. discloses a packaging **10** holding articles **20 & 60**, a plastic member **12** with a protruding part **16**, a perforation **62**, and a folding part **14**.

As to claim 2, Weaver Jr. discloses second protruding part **42 & 44**.

5. Claims 6 and 7 are rejected under 35 U.S.C. 102(a) as being anticipated by Reimer (US 6,330,945).

Regarding claim 6, Reimer discloses placing a first article **90** in a protruding part **36** of a packaging **20** (see Figure 2); placing a second article **30** relative to the first article (see Figure 2); and holding the second article **30** in a fixed position relative to the first article (see Figure 2). Since the packaging **20** is transparent, second article **30** is visible as claimed. Packaging **20** is capable of holding a communications terminal.

Regarding claim 7, Reimer discloses placing a first article **90** in a protruding part **36** of a packaging **20** (see Figure 2); locating a second article **30** relative to the first article (see Figure 2); and folding a foldable part **26** such that the second article **30** is in a fixed position relative to the first article (see Figures 1 and 2). Since the packaging **20**

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is transparent, second article **30** is visible as claimed. Packaging **20** is capable of holding a communications terminal.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reimer (US 6,330,945) in view of Stagnitto (US 3,358,824).

Regarding claim 1, Reimer discloses a packaging **20** holding articles **30 & 90**, comprising a plastic member **24** with protruding part **32** holding articles **90**, and a folding part **26** holding a second article **30** as claimed. Plastic member **24** and folding part **26** are folded at **28**.

Reimer merely lacks the express disclosure of a perforation.

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Stagnitto discloses a package **1** for articles with a perforation **5 or 5a** for folding and subsequent separation. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the packaging of Reimer with perforations in order to enable separation of the plastic member and folding part.

As to claim 2, Reimer discloses second protruding part **62**.

As to claim 3, Reimer folds as claimed (see Figure 2).

As to claim 4, Reimer discloses second protruding part **62** located in protruding part **32** as claimed.

Allowable Subject Matter

7. Claims 5 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Response to Arguments

9. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 571-272-4560. The examiner can normally be reached on Mon-Fri, 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Greg Pickett
Examiner
21 January 2005


Mickey Yu
Supervisory Patent Examiner
Group 3700